drunkenness, as affecting his credibility. *Held,* that the instruction should have been given and that for the purpose of discrediting a witness, conviction of a crime not involving moral turpitude may be shown. *Barrell* v. *Dickinson* (1909), — Vt. —, 74 Atl. 234.

At common law a man who had been convicted of an infamous crime, was not a competent witness. *State* v. *Payne,* 6 Wash. 563; *Utley* v. *Merrick,* 11 Met. (Mass.) 302; 30 AM. & ENG. ENCYC. LAW 1085. Although this disability has been removed by statute in most jurisdictions, convictions may still be shown for the purpose of discrediting the witness. There is a conflict among the decisions, in many cases due to a difference in the phraseology of the statutes, as to what classes of criminal convictions may be proved for this purpose. The following rules maintain in different jurisdictions: (1) Only convictions of such crimes as made witnesses incompetent at common law, namely infamous crimes, can now be shown to discredit them. *Gordon* v. *State,* 140 Ala. 29, 36 South 1009; *Dore* v. *Babcock,* 74 Conn. 425; *Coble* v. *State,* 31 Ohio St. 100; *State* v. *Wyse,* 33 S. C. 582. (2) A conviction of any felony may be proved for the purpose of dicrediting a witness. *People* v. *White,* 142 Cal. 292; *Palmer* v. *C. R. etc., R. Co.,* 113 Ia. 442; *Y. M. C. A.* v. *Rawlings,* 60 Nebr. 377. (3) In Texas the rule is firmly established that proof of the conviction of any crime involving moral turpitude, whether felony or misdemeanor, is proper to discredit a witness. *Goode* v. *State,* 32 Tex. Crim. Rep. 505, 24 S. W. 102; *Williford* v. *State,* 36 Tex. Crim. Rep. 414, 37 S. W. 761; *Wilson* v. *State,* — Tex. Crim. App. —, 78 S. W. 232. (4) That a witness has been convicted of any crime ,may properly be shown to discredit him. *Com.* v. *Ford,* 146 Mass. 131; *State* v. *Sauer,* 42 Minn. 258; *Helm* v. *State,* 67 Miss. 562; *State* v. *Blity,* 171 Mo. 530; *McGovern* v. *Hays,* 75 Vt. 104. The decision in the principal case would seem to be the proper one in those states which have adopted rule (4). It might also be followed in those states which have adopted rule (3). In *McLaughlin* v. *Mencke,* 80 Md. 83, it was held proper to show that a witness had been convicted of drunkenness in order to discredit him.

EVIDENCE—LETTERS BETWEEN HUSBAND AND WIFE—NOT PRIVILEGED IN HANDS OF THIRD PARTIES.—In an action on an insurance policy, the defense charged the plaintiff with being guilty of burning the property. The plaintiff had written two letters to her husband, containing admissions tending to prove her guilt. These letters the husband had received and lost. From the finder, who bore no confidential relation to husband or wife, the letters indirectly came into the possession of the defendant. The lower court refused to allow the defendant to put these letters in evidence, on the ground that they were privileged. *Held,* that where a privileged communication, involuntarily and without collusion, escapes from the custody of the parties, the privilege is lost. *O'Toole* v. *Ohio Ger. Fire Ins. Co.* (1909), — Mich. —, 123 N. W. 795, 16 Det. L. N. 803.

Whether a letter between husband and wife and otherwise privileged, loses its privilege on coming into the hands of a third party, is a question upon which the courts are not in harmony. 23 AM. & ENG. ENCYC., Ed. 2, 97.

The facts in the principal case brought the question up squarely before the supreme court of Michigan for the first time. Adopting the rule followed in the majority of states, that court held the privilege lost. The rule it laid down, however, is not quite as general as is found in some of the cases, for it excludes those cases in which the spouse who received the communication either collusively or voluntarily allowed the third party to get possession of it. Some of the cases go so far as to hold that the court will not inquire into the manner in which the third party obtained possession. *State* v. *Mathers*, 64 Vt. 101. The following authorities are in accord with the principal case: 1 GREENLEAF, § 254(a); 4 WIGMORE, EVID., § 2339 (2); *Lloyd* v. *Pennie et al.*, 50 Fed. 4; *State* v. *Hoyt*, 47 Conn. 518; *State* v. *Buffington*, 20 Kan. 599. The same rule is applied to conversations overheard by third persons in *Com.* v. *Griffin*, 110 Mass 181; *Geiger* v. *State*, 6 Nebr. 545; *Gannon* v. *People*, 127 Ill. 507. Courts favoring the opposite rule, reason that the privilege is given to the communication itself and is therefore retained, "Wheresoever or in whosesoever hands it may be." *Mercer et al.* v. *State*, 40 Fla. 216; *Ward* v. *State*, 70 Ark 204; *Lanctot* v. *State*, 98 Wis. 136; *Selden* v. *State*, 74 Wis. 271. The same rule is applied to the attorney and client relation in *Glenn* v. *Liggett*, 51 Fed. 381, 2 C. C. A. 286. The following cases hold that the privilege is not lost if the communication is voluntarily surrendered by the receiving spouse: *Bowman* v. *Patrick*, 32 Fed. 368; *Scott* v. *Com.*, 94 Ky. 511; *Wilkerson* v. *State*, 91 Ga. 729; *Mahner* v. *Linck*, 70 Mo. App. 380.

HUSBAND AND WIFE—SEPARATE MAINTENANCE—TEMPORARY ALIMONY AND SUIT MONEY.—In an action for separate maintenance, in which the fact of marriage was denied by the defendant, the trial court ordered payment of $100 suit money and $75 per month as temporary alimony. On certiorari to review this interlocutory order, *held*: In an action for separate maintenance in which the fact of marriage is put in issue, the court cannot award suit money and alimony pending final hearing. *State ex rel. Lloyd* v. *Superior Court of King Co.* (1909), — Wash. —, 104 Pac. 771.

Temporary alimony and counsel fees are not granted as a matter of course but the granting lies in the sound discretion of the court. *Cooper* v. *Mayhew*, 40 Mich. 528; *Foss* v. *Foss*, 100 Ill. 576; *Collins* v. *Collins*, 80 N. Y. 1; *Wester* v. *Martin*, 115 Ga. 776, 42 S. E. 81. In suits for limited divorce a good cause of action and real injury must be shown before relief will be granted. *Dougherty* v. *Dougherty*, 8 N. J. Eq. 540; *Davis* v. *Davis*, 75 N. Y. 221. If there is a denial of marriage, to decide that the woman had a right to temporary alimony would be to decide the question in the case without giving the alleged husband his day in court. A valid marriage must exist before temporary alimony will be allowed. *Collins* v. *Collins*, 71 N. Y. 269; *Hite* v. *Hite*, 124 Cal. 389, 57 Pac. 227; *Shaw* v. *Shaw*, 92 Ia. 722, 61 N. W. 368; *McKenna* v. *McKenna*, 70 Ill. App. 340; *Purcell* v. *Purcell*, 4 Hen. & M. (Va.) 507; *Wilhite* v. *Wilhite*, 41 Kan. 154.

INSURANCE—WAIVER OF PROVISION AGAINST EXTRA-HAZARDOUS OCCUPATION.—In an action on an insurance certificate issued by defendant order, providing that said certificate should be null and void if a member engaged in